

1 WAGANAKISING ODAWAK STATUTE # 2023-_____
2 AMENDMENT TO WAGANAKISING ODAWAK STATUTE 2022-001
3 CHILD PROTECTION STATUTE
4

5 SECTION I. REPEAL

6
7 The specified portion of the following section is hereby repealed:
8

9 SECTION V. DEFINITIONS
10

11 ...
12
13 **GG.** "Reservation" means all lands within the boundaries of the reservations for Little Traverse
14 as set out in Article I, paragraphs third and fourth of the Treaty of 1855, 11 Stat. 621, plus any
15 lands set out in Articles Second and Third of the Treaty of March 28, 1836, 7 Stat. 491, in the
16 event that the 1836 reservation is determined to include lands which are not included within the
17 1855 reservation, plus any lands outside of those boundaries which are now or in the future
18 declared to be Little Traverse reservation by the Department of the Interior or an act of Congress.
19

20 **HH.** "Respondent" means any custodian alleged to have caused, through any form of abuse or
21 neglect, the child to become a child in need of care.
22

23 **II.** "Tribal Child" means a person who is less than eighteen (18) years of age, has not been
24 emancipated by a court of competent jurisdiction, and is either (1) a Tribal citizen or (2) eligible
25 for citizenship in the Tribe under Article V, Subsection A of the LTBB Constitution.
26

27 **JJ.** "Tribal Council" means the Tribal Council of the Little Traverse Bay Bands of Odawa
28 Indians.
29

30 **KK.** "Tribal Court" means the Tribal Court of the Little Traverse Bay Bands of Odawa
31 Indians.
32

33 **LL.** "Tribe, "Tribal" or "LTBB" means the Little Traverse Bay Bands of Odawa Indians.
34

1 **MM.** "Tribal Presenting Officer" means the Tribal Prosecutor serves as Tribal Presenting
2 Officer to represent LTBB in Tribal Court proceedings under this Statute, and state court
3 proceedings in accordance with this Statute and the ICWA.
4

5 **SECTION II. REPLACE**

6
7 The specified portion of the following subsection replaces the repealed portion of the section in
8 Section I:
9

10 **SECTION V. DEFINITIONS**

11 . . .

12
13 **GG.** "Respondent" means any custodian alleged to have caused, through any form of abuse or
14 neglect, the child to become a child in need of care.
15

16 **HH.** "Territorial Jurisdiction of the Little Traverse Bay Bands of Odawa Indians" means all
17 land that is held in trust by the United States government for the benefit of the Tribe.
18

19 **II.** "Tribal Child" means a person who is less than eighteen (18) years of age, has not been
20 emancipated by a court of competent jurisdiction, and is either (1) a Tribal citizen or (2) eligible
21 for citizenship in the Tribe under Article V, Subsection A of the LTBB Constitution.
22

23 **JJ.** "Tribal Council" means the Tribal Council of the Little Traverse Bay Bands of Odawa
24 Indians.
25

26 **KK.** "Tribal Court" means the Tribal Court of the Little Traverse Bay Bands of Odawa
27 Indians.
28

29 **LL.** "Tribe" or "LTBB" means the Little Traverse Bay Bands of Odawa Indians.
30

31 **MM.** "Tribal Presenting Officer" means the Tribal Prosecutor serves as Tribal Presenting
32 Officer to represent LTBB in Tribal Court proceedings under this Statute, and state court
33 proceedings in accordance with this Statute and the ICWA.
34

35 **SECTION III. REPEAL**

1 The following section is hereby repealed:

2
3 **SECTION VI. JURISDICTION**
4

5 **A.** Jurisdiction of the Children's Court Division. Except as otherwise provided herein, the
6 Children's Court Division of the Tribal Court shall have jurisdiction over the following persons in
7 cases where it is alleged that a child is in need of care:

8
9 **1.** Any Indian child who is found or resides within the exterior boundaries of the
10 Reservation;

11
12 **2.** Any child transferred to Tribal Court pursuant to the Indian Child Welfare Act;
13

14 **3.** Any child residing within Tribal Trust Lands;
15

16 **4.** The custodian of a child in need of care and, to the extent legally permissible, any
17 other person who is alleged to have caused the child to become a child in need of care.
18

19 **B.** The Court shall have jurisdiction over voluntary guardianship appointments brought
20 under this Statute, regardless of where the Tribal child is domiciled.
21

22 **C.** Jurisdiction once exercised by the Court is continuing and exclusive unless terminated by
23 the Court.
24

25 **D.** In any case before the Children's Court Division under this Code, the Court has the
26 authority to issue orders affecting any agency of the Tribe in order to achieve the goals of the
27 Court and may compel representatives of any such agency to attend Court staffing.
28

29 **E.** Jurisdictional Procedures.
30

31 **1.** Child found or residing within Trust Lands. When a child is found or resides
32 within Tribal Trust Lands, the Tribe has original jurisdiction over all cases and exclusive
33 jurisdiction over Tribal children, so the Court may not defer to the jurisdiction of another
34 Court unless it transfers jurisdiction over a non-Tribal child under Section VII.
35

1 **2.** Tribal Child found or residing on the Tribal Reservation outside of Trust Lands. In
2 accordance with the LTBB Constitution, Tribal jurisdiction over Tribal children in need
3 of care is exclusive within the exterior boundaries of the Reservation. Therefore, the
4 Tribal Court shall accept transfer of all such cases that may have arisen in state court.
5

6 **3.** Indian Child from a tribe other than LTBB found or residing on the Tribal
7 Reservation outside of Trust Lands. The Court may exercise jurisdiction over non-LTBB
8 Indian children found or residing outside of Trust Lands within the Reservation based on
9 the following criteria:

- 11 **a.** The needs of the child;
- 12
- 13 **b.** The interests of the Tribe;
- 14
- 15 **c.** Availability of services for the children and their family; and
- 16
- 17 **d.** The prospects for permanent placement for the children.
- 18

19 **4.** Notification when taking jurisdiction over non-LTBB Indian Child. When the
20 Court takes jurisdiction over an Indian child who is an enrolled or eligible citizen in a
21 tribe other than LTBB, the Court shall provide notice to such tribe of the pending LTBB
22 Court proceeding.
23

24 **SECTION IV. REPLACE**

25
26 The following section replaces the repealed section in Section III:
27

28 **SECTION VI. JURISDICTION**

29
30 **A.** Jurisdiction of the Children's Court Division. Except as otherwise provided herein, the
31 Children's Court Division of the Tribal Court shall have jurisdiction over the following persons in
32 cases where it is alleged that a child is in need of care:
33

- 34 **1.** Any Indian child who is found or resides within the Tribe's territorial jurisdiction;
- 35

1 **2.** Any Indian child transferred to Tribal Court pursuant to the Indian Child Welfare
2 Act;

3
4 **3.** Any child residing with a Tribal citizen within the Tribe’s territorial jurisdiction;

5
6 **4.** Any child residing within the Tribe’s territorial jurisdiction if another court does
7 not timely exercise jurisdiction; and

8
9 **5.** The custodian of a child in need of care and, to the extent legally permissible, any
10 other person who is alleged to have caused the child to become a child in need of care.

11
12 **B.** The Court shall have jurisdiction over voluntary guardianship appointments brought
13 under this Statute, regardless of where the Tribal child is domiciled.

14
15 **C.** Jurisdiction once exercised by the Court is continuing and exclusive unless terminated by
16 the Court.

17
18 **D.** In any case before the Children’s Court Division under this Code, the Court has the
19 authority to issue orders affecting any agency of the Tribe in order to achieve the goals of the
20 Court and may compel representatives of any such agency to attend Court staffing.

21
22 **E.** Jurisdictional Procedures.

23
24 **1.** Indian Child found or residing within the Tribe’s territorial jurisdiction. When an
25 Indian child is found or resides within the territorial jurisdiction of LTBB, the Tribe has original
26 jurisdiction over all cases and exclusive jurisdiction over Tribal children. The Court shall not
27 defer to the jurisdiction of another Court unless it transfers jurisdiction under Section VII.

28
29 **2.** Tribal Child found or residing outside of the Tribe’s territorial jurisdiction. The
30 Tribal Court shall accept transfer of any case involving a Tribal child who resides outside of the
31 Tribe’s territorial jurisdiction but within the boundaries of the Reservation described in Article
32 III.H of the Tribe’s Constitution. The Tribal Court may accept transfer of any case involving a
33 Tribal child residing outside of the Reservation based on the following criteria:

34
35 **a.** The needs of the child;

- b. The interests of the Tribe;
- c. Availability of services for the children and their family; and
- d. The prospects for permanent placement for the children.

3. Notification when taking jurisdiction over non-LTBB Indian child. When the Court takes jurisdiction over an Indian child who is an enrolled or eligible citizen in a tribe other than LTBB, the Court shall provide notice to such tribe of the pending LTBB Court proceeding.

4. Notification when taking jurisdiction over non-Indian child. When the Court takes jurisdiction over a non-Indian child, the Court shall provide notice to the State of Michigan of the pending LTBB Court proceeding.

SECTION V. REPEAL

The following subsection is hereby repealed:

SECTION VII. TRANSFER OF JURISDICTION

...

D. Procedures for Intervention and Transfer from State Courts.

...

5. Acceptance of Transfer: The Children's Court has discretion whether to accept or deny the transfer of cases arising outside of the exterior boundaries of the Reservation based on the criteria in subsection 4 above. The decision to accept or deny transfer shall include findings of fact based on the evidence presented for each of the four criteria.

...

SECTION VI. REPLACE

The following subsection replaces the repealed subsection in Section V:

1
2 ...

3
4 **D.** Procedures for Intervention and Transfer from State Courts.

5
6 ...

7
8 **5.** Acceptance of Transfer: The Children's Court has discretion whether to accept or
9 deny the transfer of cases arising outside of LTBB's territorial jurisdiction based on the
10 criteria in subsection 4 above. The decision to accept or deny transfer shall include
11 findings of fact based on the evidence presented for each of the four criteria.

12
13 ...

14
15 **SECTION VII. EFFECTIVE DATE**

16
17 Effective upon signature of the Executive or 30 days from Tribal Council approval, whichever
18 comes first, or if the Executive vetoes the legislation, then upon Tribal Council override of the
19 veto.

20
21 **CERTIFICATION**
22